

§ 58-19-10. Subsidiaries of insurers.

(a) Any domestic insurer, either by itself or in cooperation with one or more persons, may organize or acquire one or more subsidiaries engaged in the following kinds of business:

- (1) Any kind of insurance business authorized by the jurisdiction in which it is incorporated.
- (2) Acting as an insurance broker or as an insurance agent for its parent or for any of its parent's insurer subsidiaries.
- (3) Investing, reinvesting, or trading in securities for its own account, that of its parent, any subsidiary of its parent, or any affiliate or subsidiary.
- (4) Management of any investment company subject to or registered pursuant to the federal Investment Company Act of 1940, as amended, including related sales and services.
- (5) Acting as a broker-dealer subject to or registered pursuant to the federal Securities Exchange Act of 1934, as amended.
- (6) Rendering investment advice to governments, government agencies, corporations, or other organizations or groups.
- (7) Rendering other services related to the operations of an insurance business, including actuarial, loss prevention, safety engineering, data processing, accounting, claims, appraisal, and collection services.
- (8) Ownership and management of assets that the parent corporation could itself own or manage.
- (9) Acting as an administrative agent for a governmental instrumentality that is performing an insurance function.
- (10) Financing of insurance premiums, agents, and other forms of consumer financing.
- (11) Any other business activity that is reasonably ancillary to an insurance business.
- (12) Owning a corporation or corporations engaged or organized to engage exclusively in one or more of the businesses specified in this section.

(b) In addition to investments in common stock, preferred stock, debt obligations, and other securities permitted under this Chapter, a domestic insurer may also:

- (1) Invest, in common stock, preferred stock, debt obligations, and other securities of one or more subsidiaries, amounts that do not exceed the lesser of ten percent (10%) of the insurer's admitted assets or fifty percent (50%) of the insurer's policyholders' surplus, provided that after those investments, the insurer's policyholders' surplus will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs. In calculating the amount of the investments, investments in domestic or foreign insurance subsidiaries and health maintenance organizations shall be excluded, and there shall be included: (i) total net monies or other consideration expended and obligations assumed in the acquisition or formation of a subsidiary, including all organizational expenses and contributions to capital and surplus of the subsidiary whether or not represented by the purchase of capital stock or issuance of other securities; and (ii) all amounts expended in acquiring additional common stock, preferred stock, debt obligations, and other securities, and all contributions to the capital or surplus, of a subsidiary subsequent to its acquisition or formation;

- (2) Invest any amount in common stock, preferred stock, debt obligations and other securities of one or more subsidiaries engaged or organized to engage exclusively in the ownership and management of assets authorized as investments for the insurer; provided that such subsidiary agrees to limit its investments in any asset so that such investments will not cause the amount of the total investment of the insurer to exceed any of the investment limitations specified in subdivision (b)(1) of this section or in Article 7 of this Chapter applicable to the insurer. For the purposes of this section, "the total investment of the insurer" includes: (i) any direct investment by the insurer in an asset; and (ii) the insurer's proportionate share of any investment in an asset by any subsidiary of the insurer, which shall be calculated by multiplying the amount of the subsidiary's investment by the percentage of the ownership of such subsidiary.
- (3) With the approval of the Commissioner, invest any greater amount in common stock, preferred stock, debt obligations, or other securities of one or more subsidiaries; provided that after such investment the insurer's policyholders' surplus will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

(c) Investments in common stock, preferred stock, debt obligations, or other securities of subsidiaries made pursuant to subsection (b) of this section are not subject to any of the otherwise applicable restrictions or prohibitions contained in this Chapter applicable to such investments of insurers.

(d) Whether any investment pursuant to subsection (b) of this section meets the applicable requirements of that subsection is to be determined, before such investment is made, by calculating the applicable investment limitations as though the investment had already been made, taking into account the then outstanding principal balance on all previous investments in debt obligations, and the value of all previous investments in equity securities as of the day they were made, net of any return of capital invested, not including dividends.

(e) If an insurer ceases to control a subsidiary, it shall dispose of any investment therein made pursuant to this section within three years from the time of the cessation of control or within such further time as the Commissioner may prescribe, (i) unless after cessation of control such investment meets the requirements for investment under any other provision of Articles 1 through 64 of this Chapter, or (ii) unless the Commissioner authorizes the insurer to continue the investment. (1989, c. 722, s. 1; 1993, c. 504, s. 11; 2001-223, ss. 16.2, 16.3, 16.4.)